

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

THE DOE RUN RESOURCES)
CORPORATION,)
Plaintiff,) Cause No. 4:10-CV-01875 (JAR)
v.)
LEXINGTON INSURANCE COMPANY,)
Defendant.)

AFFIDAVIT OF LAURA S. MCKAY IN SUPPORT OF DEFENDANT
LEXINGTON INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT
BASED ON THE "LOSS IN PROGRESS" DOCTRINE

I, Laura S. McKay, declare as follows:

1. I am a partner with the law firm of Hinkhouse Williams Walsh, LLP, and I am licensed to practice law in the State of Illinois.
2. I am admitted *pro hac vice* in the Circuit Court for the County of St. Louis, Missouri, in the matter of *The Doe Run Resources Corporation v. Continental Casualty Company, et al.*, Cause No. 07CC0000613 (the “*Continental Casualty Lawsuit*”), and I am counsel of record representing Certain Underwriters at Lloyds, London, and Certain London Market Insurance Companies (“London Market Insurers”) therein.
3. As counsel for London Market Insurers in the *Continental Casualty Lawsuit*, I am familiar with the procedural and litigation history in that case, including all discovery responses served on London Market Insurers, all documents produced by Doe Run and London Market Insurers, and all other filings and orders. As such, I have personal knowledge of the matters stated herein, and, if called to testify, could and would testify competently thereto.

4. Attached hereto as Exhibit A is a true and correct copy of excerpts from Doe Run's Responses and Objections to First Set of Interrogatories Directed to Plaintiff from Defendants London Market Insurers and Continental Casualty Company for Requests Relating to the Leadwood Site, served on counsel for London Market Insurers by Doe Run in the *Continental Casualty* Lawsuit on July 16, 2007.

5. Attached hereto as Exhibit B is a true and correct copy of excerpts from Doe Run's Supplemental Responses and Objections to the Third Set of Interrogatories from Defendants London Market Insurers and Continental Casualty Company, served on counsel for London Market Insurers by Doe Run in the *Continental Casualty* Lawsuit on February 29, 2008.

6. Attached hereto as Exhibit C is a true and correct copy of the Affidavit of Louis Maruchea in Support of Doe Run's Opposition to London's Motion for Partial Summary Judgment Re: Loss Payable Provision, dated December 1, 2009 (the "December 1, 2009, Maruchea Affidavit"), and served on counsel for London Market Insurers by Doe Run in the *Continental Casualty* Lawsuit.

7. Attached hereto as Exhibit D is a true and correct copy of the Affidavit of Louis Maruchea in Support of Doe Run's Motions for Partial Summary Judgment [Motions 1-4], dated May 9, 2011 (the "May 9, 2011, Maruchea Affidavit"), and served on counsel for London Market Insurers by Doe Run in the *Continental Casualty* Lawsuit.

8. Attached hereto as Exhibit E is a true and correct copy of the Supplemental Affidavit of Louis Maruchea in Support of Doe Run's Oppositions to London Market Insurers' Motions for Partial Summary Judgment, dated June 1, 2011, and served on counsel for London Market Insurers by Doe Run in the *Continental Casualty* Lawsuit.

9. Attached hereto as Exhibit F is a true and correct copy of a document attached as Exhibit P to the December 1, 2009, Maruchea Affidavit in the *Continental Casualty* Lawsuit, bearing Bates numbers DR0021889-DR0021890, indicating that it is an October 7, 1993, letter from counsel for St. Joe Minerals Corporation to counsel of record in the matter of *St. Joe Minerals v. Allianz*.

10. Additionally, on October 7, 1993, Doe Run notified London Market Insurers that it was adding the Leadwood site to the list of sites at issue in a declaratory judgment action regarding insurance coverage with respect to a number of mining sites, which Doe Run had filed in the Superior Court of the State of California for the County of Orange, captioned *St. Joseph Minerals Corp. v. Allianz Insurance Company, et al.*

11. Attached hereto as Exhibit G is a true and correct copy of a document attached to Exhibit I of the December 1, 2009, Maruchea Affidavit in the *Continental Casualty* Lawsuit, bearing Bates numbers LMI000641-LMI000642, indicating that it is a November 18, 1999, Notice of Potential Liability and Offer to Negotiate for Removal Action to Test for and Control Elevated Blood Lead sent by the United States Environmental Protection Agency Region VII (“USEPA”) to Doe Run.

12. Attached hereto as Exhibit H is a true and correct copy of a document produced by Doe Run in the *Continental Casualty* Lawsuit with Bates numbers DR0022493-DR0022495, indicating that it is a February 7, 2000, Notice of Potential Liability and Offer to Negotiate for Engineering Evaluation and Cost Analysis sent by the USEPA to Doe Run.

13. Attached hereto as Exhibit I is a true and correct copy of a document attached as Exhibit 20 to the May 9, 2011, Maruchea Affidavit in the *Continental Casualty* Lawsuit, bearing Bates numbers DRHQ1016475-DRHQ1016530, indicating that it is an April 4, 2000,

Administrative Order on Consent in *In the Matter of: St. Francois County Mining Area*, USEPA docket no. CERCLA-7-2000-0015.

14. Attached hereto as Exhibit J is a true and correct copy of a document attached as Exhibit 15 to the May 9, 2011, Marucheau Affidavit in the *Continental Casualty* Lawsuit, bearing Bates numbers DR0021709-DR0021767, indicating that it is a June 9, 2000, Administrative Order on Consent in *In the Matter of: Leadwood Mine Tailings Site*, USEPA docket no. CERCLA-7-2000-0022.

15. Attached hereto as Exhibit K is a true and correct copy of a document produced by Doe Run in the *Continental Casualty* Lawsuit with Bates numbers DRHQ1020861-DRHQ1020862, indicating that it is a March 20, 1996, News Release from the Missouri Department of Health (MDOH).

16. Attached hereto as Exhibit L is a true and correct copy of a document produced by Doe Run in the *Continental Casualty* Lawsuit with Bates numbers DRHQ1020880-DRHQ1020881, indicating that it is a May 27, 1997, press release by Doe Run.

17. Attached hereto as Exhibit M is a true and correct copy of a document produced by Doe Run in the *Continental Casualty* Lawsuit with Bates number DRHQ1001636, indicating that it is a May 27, 1997, News Release from the MDOH.

FURTHER AFFIANT SAYETH NAUGHT

Executed this 13th day of January, 2012, in Chicago, Illinois.

A handwritten signature in blue ink, appearing to read "John A. McCoy".